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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,113	12/26/2001	Tomasz A. Matraszek	83835RLO	3394

7590

11/29/2005

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EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,113

Applicant(s)

MATRASZEK ET AL.

Examiner

Gregory F. Cunningham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/26/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is responsive to communications of application received 12/26/2001.
2. The disposition of the claims is as follows: claims 1 - 20 are pending in the application.
Claims 1 and 7 are independent claims.
3. The group and/or Art Unit location of your application has changed. To aid in the correlation of any papers for this application, all further correspondence should be directed to Group Art Unit 2676 (effective 11/05). Please be sure to use the most current art unit number on all correspondence to help us route your case and respond to you in a timely fashion.
4. When making claim amendments, the applicant is encouraged to consider the references in their entireties, including those portions that have not been cited by the examiner and their equivalents as they may most broadly and appropriately apply to any particular anticipated claim amendments.

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to retrieval scheme for stored digital images, classified in class 369, subclass 125, and class 382 subclass 159.
 - II. Claims 7-20, drawn to storing digital images to facilitate retrieval, classified in class 345, subclasses 547, 555, 565 and foreign 107, 125 and 131.

The inventions are distinct, each from the other because of the following reasons:

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Because these inventions have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Raymond Owens (Registration number 22,363) on 11/14/2005 a provisional election was made with traverse to prosecute the invention of Group II, claims 7-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 7-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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A. Claim 7 is anticipated by a mental process augmented by pencil and paper markings to classify and arrange movie DVDs.

“A method for providing a retrieval scheme for stored digital images [DVDs], comprising the steps of:

a) storing a plurality of digital images [collection of digital images stored in a DVD or collection of DVDs stored on store shelves];

b) providing a user identifier for the plurality of digital images [G, PG, PG-13, R and X ratings identify type of user];

c) classifying one or more of the images as an important image based upon a user reaction to the images [DVD cover picture image shown for sales appeal]; and

d) storing the user identifier and the classification to facilitate retrieval of particular ones of the plurality of stored digital images [collection of digital images stored in a DVD or collection of DVDs stored on store shelves].

(See MPEP Section: 2111 [R-1], Claim Interpretation; Broadest Reasonable Interpretation.

B. Claims are disclose supra for claim 7, wherein (claims 8 and 9) “user identifier and classification are stored with the digital image’ on the DVD cover image picture; (claim 12) “providing a user interface to enable the user to indicate important images” corresponds to customer making selection of DVDs to check out; (claim 13) “includes determining the duration of time the user views each of the plurality of digital images” corresponds to DVD running-time listed on DVD or back jacket cover; (claim 15) “specifies the time or period within a range of times that the classification was performed” corresponds to the ‘copyright date’; (claim 16)

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“using the classification to determine the order or size of the displayed images” corresponds to G, PG, PG-13, R and X ratings are grouped in order according to said rating classification and important popular new DVDs display kiosk size images; (claims 17-20) disclosed supra.

C. Claims 8-20 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7-9, 12, 13 and 15-20 are rejected under 35 U.S.C. 103(a) as being disclosed by Official Notice.

A. Claim 7 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “A method for providing a retrieval scheme for stored digital images [DVDs: a collection of digital images on DVD], comprising the steps of:

a) storing a plurality of digital images [collection of digital images stored in a DVD or collection of DVDs stored on store shelves and exemplified by Rob Roy];

b) providing a user identifier for the plurality of digital images [ISBN corresponds to ‘collection of digital images stored in a DVD’ or G, PG, PG-13, R and X ratings corresponds to ‘collection of DVDs stored on store shelves’];

c) classifying one or more of the images as an important image based upon a user reaction to the images [DVD cover picture image shown for sales appeal]; and

d) storing the user identifier and the classification to facilitate retrieval of particular ones of the plurality of stored digital images [collection of digital images stored in a DVD or collection of DVDs stored on store shelves and exemplified by Rob Roy], as [detailed supra].

B. Claim 8 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 wherein the user identifier and classification are stored with the digital image in a digital image file [user identifier and classification are stored with the digital image’ on the DVD cover image picture – see Rob Roy: R and ISBN].

C. Claim 9 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 wherein the user identifier and the classification are stored in a database separate from the digital image” as detail supra for claim 7 and in [ISBN database].

D. Claim 12 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 wherein the step of classifying one or more of the images as an important image includes providing a user interface to enable the user to indicate important images” [customer making selection of DVDs to check out according to front jacket image picture appeal]

E. Claim 13 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 wherein the step of classifying one or more of the images as an important image

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includes determining the duration of time the user views each of the plurality of digital images” [DVD running-time listed on DVD or back jacket cover, exemplified by Rob Roy with run time of 2 hours 19 minutes]”, as [detailed supra].

F. Claim 15 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 wherein the classifying step further specifies the time or period within a range of times that the classification was performed” [copyright date], as [detailed supra].

G. Claim 16 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “A method of using the user identifier and classification according to claim 7 to retrieve and display images, and further including the step of using the classification to determine the order or size of the displayed images” [G, PG, PG-13, R and X ratings are grouped in order according to said rating classification and important popular new DVDs display kiosk size images].

H. Claim 17 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 further including classifying and storing unimportant images” [as exemplified by the smaller pictures on the back cover jacket of Rob Roy].

J. Claim 18 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 further including providing user identifiers and classifications for a plurality of users” [wherein Drama, Comedy, Action, Adventure, Sci-Fi, and Horror; and/or G, PG, PG-13, R and X

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ratings identify the Drama, Comedy, Action, Adventure, Sci-Fi, and Horror; and/or G, PG, PG-13, R and X user(s)].

K. Claim 19 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 7 further including using the classification to determine the size of a displayed image” [wherein DVDs classified as new are displayed as kiosk size image posters].

L. Claim 20 is disclosed with Official notice taken that the art is replete with video rental stores, i.e.: Block Buster and Hollywood Rentals prior to 12/26/2001, that provided “The method of claim 17 further including printing the important and unimportant images on at least one page and wherein the important images have a larger size than the unimportant images” [DVD, wherein DVD corresponds to a collection of digital images, i.e. album], and the images classified as important images ‘image of Rob Roy holding two pistols beside his wife’ have a larger size than the images not classified as important images ‘Scene Selections showing four images’”, as [detailed supra].

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maehara (Japanese Patent JP 10143680 A) as applied to claim 1 above, and further in view of Black et al., (US 580220 A), hereinafter Black.

A. Claim 10, “The method of claim 7 wherein the step of classifying one or more of the images as an important image includes monitoring the facial expression of the user” is disclosed by Official Notice and Rob Roy supra. However, Official Notice using Rob Roy does not appear to disclose “wherein the step of classifying one or more of the images as an important image includes monitoring the facial expression of the user”, but Black does in col. 28, lns. 13-29.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Maehara in combination with attention level of viewers smiling or laughing as disclosed by Black, and motivated to combine the teachings because it would provide for recognizing non-rigid or deformable motion of facial features over a sequence of images as revealed by Black in col. 1, lns. 35-38.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maehara (Japanese Patent JP 10143680 A) as applied to claim 1 above; and further in view of 'Aroused and Immersed: The Psychophysiology of Presence', hereinafter Aroused and Immersed.

A. Claim 11, "The method of claim 7 wherein the step of classifying one or more of the images as an important image includes monitoring the physiology of the user" is disclosed by Maehara *supra* for claim 1.

However, Maehara does not appear to disclose "wherein the step of classifying one or more of the images as an important image includes monitoring the physiology of the user", but Aroused and Immersed does in [In general, features such as videographics, scene cuts and motion have been associated with short-term patterns of physiological activity linked to attentional processes (Thorson & Lang, 1992; Rothschild, Thorson, Reeves, Hirsch & Goldstein, 1986). Manipulations of media content, on the other hand, have shown that subjectively rated arousing video footage can maintain both physiological arousal and behaviour patterns over longer periods of time, while unarousing stimuli produce states of 'relaxation' (Zillman, 1990). Interestingly, relative to still images, moving images produce higher levels of EDA and larger HR decelerations whilst also elevating subjective ratings of emotional intensity (Detenber, Simons & Bennet, 1998; Simons, Detenber, Roedema & Reiss, 1999). Motion has also been

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shown to consistently increase subjective ratings of presence (Freeman, Avons, Pearson, & IJsselsteijn, 1999; Freeman, Avons, Meddis, Pearson, & IJsselsteijn, 2000).]

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Maehara in combination with 'videographics, scene cuts and motion have been associated with short-term patterns of physiological activity linked to attentional processes' as disclosed by Aroused and Immersed, and motivated to combine the teachings because 'presentations in various forms are thought to produce and moderate states of arousal' as revealed by Aroused and Immersed.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maehara (Japanese Patent JP 10143680 A) as applied to claim 1 above, and further in view of Horvitz (US 6,182,133 B1).

A. Claim 14, "The method of claim 7 wherein the step of classifying one or more of the images as an important image includes monitoring the gaze of the user" is disclosed by Maehara *supra* for claim 1.

However, Maehara does not appear to disclose "wherein the step of classifying one or more of the images as an important image includes monitoring the gaze of the user", but Horvita does in col. 46, lns. 4-25.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Maehara in combination with 'gazing' as disclosed by Horvitz, and motivated to combine the teachings because 'use of such a technique is likely to significantly increase the rate at which pages are typically displayed to a

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user, thus reducing user frustration and increasing user satisfaction' as revealed by Horvitz in col. 3, lns. 35-39.

Responses


13. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Inquiries

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

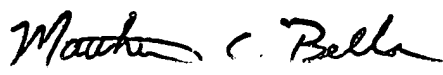
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The Central FAX Number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory F. Cunningham
Examiner
Art Unit 2676

gfc

11/21/2005


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